

# INDEX

	<i>Page</i>
Petition for a Writ of Certiorari.....	1
Summary Statement of Matter Involved.....	1
Reasons Relied Upon for the Allowance of the Writ...	3
Prayer of Petition.....	4
Supporting Brief of Petition for Writ of Certorari.....	7
Statement of Issues .....	7
First, Was it the Purpose and Intention of the Congress to Delegate to the Administra- tor the Power to Regulate the Sales of such Liquors and Fix a Maximum Price Therefor in Mississippi?.....	7
Second, If the Answer is Yes, Then Did the Congress Have the Constitutional Power to do so Under the Twenty-first Amend- ment and the Statutes of Mississippi? .....	8
Argument .....	8
The Intention of the Congress.....	8
Two Classes of Commodities.....	8
Inherent Nature of Commodities Fix Their Status Under the Constitution.....	10
The Status of Intoxicants Depend on State Laws.....	12
Back Ground Twenty-first Amendment.....	14
Liquor Enforcement Act .....	17
The Declared Purpose of Congress.....	19
Administrative Provisions of The Act.....	21
Regulations .....	22
Administrator Can Buy or Sell Commodities.....	22
May Issue License .....	23
Maximum Lawful Price.....	24
No Basis Upon Which to Fix Maximum Price.....	27
Price Regulation Inconsistent With State Law.....	31
Second, Did the Congress Have Constitutional	

Power to Regulate or Delegate Authority to Regulate Intoxicating Liquors in States Where Such Liquors are Without Property Rights and Contraband? .....	34
Bacardi Corp. v. Domenech 311 U. S. 150, 168 .....	12
Brewing Co. v. Liquor Commission 305 U. S. 391, 394 .....	10
Carter v. Virginia 321 U. S. 131 .....	12
Cohens v. Virginia 6 W. 264; 51 L. Ed. 257 .....	18
Collins v. Yosemite Park 304 U. S. 518, 533 .....	13
Crane v. Campbell 245 U. S. 304, 307 .....	10
Duckworth v. Arkansas 314 U. S. 390 .....	12
Encyclopedia Britannica, "Liquor Laws" .....	15
Hamilton v. Kentucky Distilleries 251 U. S. 146, 156 .....	15, 37
James Clark Distilling Co. v. Western Ind. R. R. Co. 242 U. S. 311, 332 .....	36
Jatros v. Bowles 143 Fed. (2d) (C.C.A. 6) 453 .....	25
Lincoln Savings Bank v. Brown 137 Fed. (2d) (E.C.A.) 228 .....	29
Linder v. U. S. 268 U. S. 5, 18 .....	35
Milligan, Ex Parte 4 Wall. 2, 121-127 .....	38
Mugler v. Kansas 123 U. S. 623 .....	10
Pacific Coast Dairy Co. v. Dept. Agr. 318 U. S. 285 .....	13
Reid v. Colorado 187 U. S. 137, 148 .....	19
Samuels v. McCurdy 267 U. S. 188, 198 .....	10
State Bd. of Equalization v. Young's Market Co. 299 U. S. 59 .....	12
U. S. v. Constantine 296 U. S. 287 .....	32, 35
U. S. v. Frankfort Distilleries U. S., 89 L. Ed. 649, Adv. Op. ....	25
Yakus Case 321 U. S. 414, 427 .....	30
Ziffrin Inc. v. Reeves 308 U. S. 132, 140 .....	10, 12, 21

**IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1945**

**J. W. BARNETT, SR.**

**MRS. J. W. BARNETT, SR.**

**J. W. BARNETT, JR. .... Petitioners**

**v.**

**CHESTER BOWLES, Administrator ..... Respondent**

**PETITION FOR A WRIT OF CERTIORARI TO  
THE EMERGENCY COURT OF APPEALS**

**TO THE HONORABLE THE CHIEF JUSTICE AND  
ASSOCIATE JUSTICES OF THE SUPREME COURT OF  
THE UNITED STATES:**

**SUMMARY STATEMENT OF THE MATTER INVOLVED**

This case arises under the Emergency Price Control Act of 1942 as amended June 30, 1944, and challenges the validity of Price Regulation No. 445 in which the Price Administrator fixed a maximum price on intoxicating liquors in Mississippi. Petitioners were indicted in the District Court for the Eastern Division of the Southern District of Mississippi for selling whiskey in Mississippi above the ceiling prices established by the Regulation No. 445. After having plead to the indictment, they filed in the District Court of Mississippi application for leave and were allowed to file complaint in the Emergency Court of Appeals under

Section 204 (e) (924(e) (1) 50 U. S. C. A. App.) of the Emergency Price Control Act, (R. 22-35)

The complaint was filed in the Emergency Court of Appeals, being Cause No. 187 in said Court and presented for decision answers to two questions:

1. Was it within the intendment of the Congress or within the scope of the Emergency Price Control Act to delegate to the Price Administrator the power to establish maximum prices for such intoxicating liquors in Mississippi, under the laws of which such liquors are contraband and without property rights and the importation into or transportation within the State, the manufacture, use, ownership, or possession of such liquors within the State is contrary to the laws thereof, and the importation of such liquors into Mississippi being prohibited by the Twenty-first Amendment?

2. If the answer is "Yes", Then did the Congress have the power, in virtue of the Twenty-first Amendment and the Statutes of Mississippi, to prescribe such maximum prices or to delegate the power to do so to the Administrator?

The Emergency Court of Appeals answered each question in the affirmative, Chief Judge Maris dissenting, and held that such maximum price regulations were intended by and within the Constitutional power of the Congress. See opinion in Record, not yet reported. Judgment was rendered dismissing the complaint. (R. . . .)

This Petition is filed seeking a review of that Judgment dismissing the complaint as authorized by Section

204 (d) (Section 924(e) 50 U. S. Ca. App.) of the Emergency Price Control Act. The relevent Sections of Mississippi Statutes, as to intoxicating liquors, are appended to the complaint filed by the Petitioners in the Emergency Court of Appeals, reference to which is hereby made. (R. 37-42.)

### REASONS RELIED UPON FOR THE ALLOWANCE OF THE WRIT

The case presents questions of the first importance relating (1) To the construction of the Emergency Price Control Act as touching the authority under said Act of the Administrator to prescribe maximum prices for intoxicating liquors in Mississippi where there is no property rights in such liquors, but are contraband; and (2) If the Act be construed to delegate such power to the Administrator, then the question arises as to the constitutionality of the Act in its application to such States under the Twenty-first Amendment and the laws of those States prohibiting the importation into and transportation within, or the possession or ownership of such liquors, or the manufacture therein of such liquors, which are questions of importance, not only to the parties to this cause, but to the proper interpretation and application of the Twenty-first Amendment to the laws of those States, which the Twenty-first Amendment obligates the Government to aid in enforcing by preventing importation into the States.

These are questions upon which this Court has never passed.

Aside from the importance of the issue presented, the decision below should be reviewed for the additional reason, we submit, that it is clearly erroneous and not in ac-

cord with the principles and spirit of applicable decisions of this Court.

The Court below, by divided opinion, has decided an important question of Federal law, which has not been but should be decided by this Court.

To the extent that the decision below sustains the validity of the Regulation as touching contraband liquors and the power of the Administrator to enter prohibition States and regulate the sales of liquor therein and impose penalties and invoke the administrative measures provided for in the Emergency Price Control Act is not in accord with the spirit of the Twenty-first Amendment and are contrary to the laws of Mississippi and the principles announced by the decisions of this Court.

In the interest of brevity, Petitioners do not at this time set forth all the points which will be urged at the argument of this cause should the Writ be granted, nor all the contentions in support of such points, but in order to comply with the rule of this Court that all issues upon which decision is requested be presented in a Petition for Certiorari, Petitioners here refer to and incorporate into this Petition all of the matters presented in their Petition or leave to file complaint in the Emergency Court of Appeals, presented to the District Court, (R. 22) with the same force and effect as if set forth herein in full.

WHEREFORE, your Petitioners respectfully pray that a Writ of Certiorari issue out of and under the seal of this Honorable Court, directed to the Emergency Court of Appeals, commanding that Court to certify and to send to this Court for its review and determination, on a day certain to

be therein named, a transcript of the record and proceedings herein; and that the Judgment of the Emergency Court of Appeals be reversed by this Honorable Court; and your Petitioners pray for such other and further relief in the premises as to this Court may seem meet and just.

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.....  
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